

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 14275 of 2004

Between:

Asu Nagamma, D/o.Late Borraiah,
R/o.Morumuru Village, Bhadrachalam Mandal, Khammam Dist.

..... PETITIONER

AND

- 1 The Government of A.P. rep.by its Principal Secretary, Home (Courts-A) Dept, Secretariat, Hyderabad.
- 2 The Secretary to Government of A.P., Law, Legislative Affairs & Justice Home (Courts-C) Department, Secretariat, Hyderabad.
- 3 The Dist.Collector / Agent to Government, Khammam.
- 4 The Sub-Divisional Magistrate, Mobile Court, bhadrachalam, Khammam Dist.
- 5 The Principal Secretary to Government, Tribal Welfare Dept., Secretariat, Hyderabad
- 6 The Commissioner of Tribal Welfare, Hyderabad

(RR 5 & 6 impleaded as per court order dt. 27-12-2004)

7 "SAKTI", a voluntary social organization for the
upliftment of Tribes People, (Regd.No.76/85),
Rampachodavaram, East Godavari District,

Represented by its Director, Dr. P.Sivaramakrishna.

(RR7 is impleaded as per Court Order dated 22-02-2005 in

WPMP.No.954 of 2005)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction preferably writ of mandamus declaring the action of the respondents 1 & 2 in establishing and continuing the 4th respondent (Mobile court) by appointing Revenue Divisional officer as sub-divisional Magistrate at Bhadrachalam, Khammam District, which is an agency area by issuing G.O.Ms.No.406, Home (Courts-A) Department, dt.27-06-1990, G.O.Rt.No.1471, Home (Courts-A) Department, dated 25-05-1991, G.O.Rt.No.667, Home (Courts-A) Department, dated 25-03-1994, G.O.Rt.No.192, Home (Courts-A) Department, dated 28-1-1995, G.O.Rt.No.432, Home (courts-A) Department, dated 28-3-2001, G.O.Rt.No.431, Law (LA & J Home courts-C) Department dt.28-3-2001, & G.O.Rt.No.626, Law (LA & J Home Courts-C) Department, dated 14-06-2004 and consequential Notifications dt.21-04-03 and 01-05-2003 as illegal, arbitrary and contrary to the judgment of this Hon'ble High Court of A.P., in W.P.No.13197/99, dt.07-12-2000 and consequently direct the Respondents 1 & 2 to entrust the administration of Civil Justice to a qualified Judicial officer in respect of 4th respondent mobile court.

Counsel for the Petitioner:MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent Nos.1 to 4: GP FOR HOME

Counsel for the Respondent Nos.5 & 6: GP FOR SOCIAL WELFARE

Counsel for the Respondent No.7: MR. A.RAMALINGESWARA RAO

The Court made the following ORDER: (per BRSR, J)

This writ petition purported to be under public interest is filed under Article 226 of the Constitution of India praying this Court to issue a writ, order or direction particularly, one in the nature of Writ of Mandamus declaring the action of respondents 1 and 2 in establishing and continuing the fourth respondent (Mobile Court) at Bhadrachalam by appointing Revenue Divisional Officer as Sub-Divisional Magistrate by issuing G.O.Ms.No.406, Home (Courts-A) Department, dated 27-06-1990 and extending thereafter, as illegal and arbitrary apart from being contrary to the judgment of this Court in WP.No.13197 of 1999, dated

07-12-2000. The petitioner accordingly prays for issuance of a consequential direction to respondents 1 and 2 to entrust the administration of Civil Justice to a qualified Judicial Officer.

The Commissioner of Tribal Welfare, Hyderabad has filed a detailed counter-affidavit, in which, it is inter-alia, stated that in pursuance of the judgment of the Apex Court in WP.No.324 of 2003, a notice was given to the Tribal Welfare Department and the Tribal Welfare Department immediately initiated appropriate steps by constituting a committee vide proceedings dated 16-03-2004 to study the implications with the application of CPC and Cr.P.C. to the scheduled areas. The committee, so constituted, headed by Professor Krishna Kumari, commenced its work from 01-07-2004. That as a part of the study, the committee visited tribal areas and interacted with the stakeholders of the justice administration in scheduled areas. Even a workshop was conducted on 05-02-2005 to seek suggestions of participants on the effects of application of Cr.P.C. and CPC as well. The committee is likely to finalise report and make its recommendations. It is stated that the recommendations to be submitted by the committee shall be placed before the Tribes Advisory Council as is required under the provisions of the Constitution and only thereafter, appropriate action will be taken by the Government.

It is clearly evident from the averments made in the counter-affidavit filed by the Commissioner of Tribal Welfare that the Government is seized of the matter and the issue is under active consideration, for which purpose, the Government has rightly appointed a committee of experts. We are not inclined to issue any directions at this stage even before the Committee made recommendations, which are required to be placed before the Tribes Advisory Council under the Constitution.

For the aforesaid reasons, we hold that the writ petition is premature.

It is needless to direct that the Government shall take an appropriate decision in the matter in the light of the recommendations of the committee and the views of the Tribes Advisory Council. For the present, we are not inclined to issue any directions in this regard.

The writ petition is accordingly dismissed without any order as to costs.

(B.SUDERSHAN REDDY, J)

22nd FEBRUARY, 2005

(C.V.RAMULU, J)

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To

- 1 The Principal Secretary, Home (Courts-A) Dept, The Government of AP, Secretariat, Hyderabad.
- 2 The Secretary to Government of A.P., Law, Legislative Affairs & Justice Home (Courts-C) Department, Secretariat, Hyderabad.
- 3 The Dist.Collector / Agent to Government, Khammam.
- 4 The Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, Khammam District.
- 5 The Principal Secretary to Government, Tribal Welfare Dept., Secretariat, Hyderabad
- 6 The Commissioner of Tribal Welfare, Hyderabad.

- 7 Two CCs to the Government Pleader for Home, A.P.High Court Buildings, Hyderabad (OUT).

- 8 Two CCs to the Government Pleader for Social Welfare, A.P.High Court Buildings, Hyderabad (OUT).

- 9 Two CD copies.